

Memorandum 2023-12

Fish and Game Law: Draft Recommendation

At its January 2023 meeting, the Commission¹ considered Memorandum 2023-6, presenting a staff draft of a final recommendation proposing numerous technical improvements to the Fish and Game Code. The Commission approved inclusion of those improvements in a final recommendation, but deferred a decision on the narrative part of the recommendation.

This memorandum presents, as attached Exhibits, a slightly revised version of the narrative and some minor additions and changes to the proposed legislation.

Unless otherwise indicated, all statutory references in this memorandum are to sections of the existing Fish and Game Code.

NARRATIVE

As has been discussed previously, some commenters were concerned about the discussion of the existing definition of “fish” in the draft recommendation that was attached to Memorandum 2023-6.

Following further informal discussions with those commenters, the staff proposed a revised version of the discussion for possible incorporation in the narrative part of the final recommendation in this study. The goal of the revision was to accomplish the original purpose of the discussion — acknowledging the issue and explaining why the Commission did not address it globally — without giving the issue outsized importance.

Staff shared the revised language with the Chair and obtained his permission to present it here for the Commission’s consideration.²

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. The Chair also suggested some minor edits elsewhere in the narrative, most of which were incorporated in the draft attached to this memorandum.

The revision would make two main changes:

- (1) It would delete the prior discussion (which was set out on pages 3 and 4 of the draft recommendation that was attached to Memorandum 2023-6).
- (2) It would add footnote 4 to the draft narrative that is attached to this memorandum.

The staff prefers the revised narrative, which is attached as the first Exhibit to this memorandum, and recommends that the Commission approve it.

PROPOSED LEGISLATION

This memorandum recommends some changes to the proposed legislation that was approved at the January meeting. The proposals are informed by two external sources:

- (1) Continued discussion with the Department of Fish and Wildlife (DFW) and the Fish and Game Commission (FGG) about items that had not yet been fully resolved.
- (2) Suggestions from the Deputy Legislative Counsel who is preparing a bill draft to implement the Commission's recommendation.

The recommended changes are discussed below.

Discussion with Agencies

Fish and Game Code Section 2124

The staff discovered that one revision had been inadvertently omitted from the draft that was attached to Memorandum 2023-6. The staff regrets the error.

The revision should read as follows:

2124. (a) Except as otherwise authorized by this code or regulations adopted pursuant ~~thereto~~ to this code, including, but not limited to, those provisions that authorize raising deer to produce venison for market, it is unlawful for any person to possess, transport, import, export, propagate, purchase, sell, or transfer any live mammal ~~listed under~~ enumerated in or designated pursuant to Section 2118, for the purposes of maiming, injuring, or killing the mammal for gain, amusement, or sport.

(b) Except as otherwise authorized by this code or regulations adopted pursuant ~~thereto~~ to this code, the buyer of a live mammal ~~listed in~~ enumerated in or designated pursuant to Section 2118 shall not resell the live mammal to another buyer who has the intent to

maim, injure, or kill that mammal for purposes of gain, amusement, or sport.

~~(b)~~ (c) This section does not apply to the meat, hide, or parts of a dead mammal.

Comment. Section 2124 is amended to conform to statutory language used in other code sections that refer to animals listed in Section 2118. See Sections 2123, 2185, 2190.

The section is also amended to add additional subdivisions and make other technical changes.

Both DFW and FGC have indicated support for the proposed revision.

The staff recommends that this proposed revision of Section 2124 be included in the final recommendation in this study.

Fish and Game Code Section 3407

The second sentence of Section 3407 presently reads as follows:

A deer tag shall be countersigned by a person who is authorized to countersign deer tags pursuant to Section 372 of Title 14 of the California Code of Regulations.

The Commission had proposed to revise this section to update the cross-reference, because the referenced regulation has been repealed. The original proposal had been to replace the obsolete reference with a reference to a different regulation section, which addresses the same issue.

After further discussion with FGC and DFW, both agencies agreed that it would be better to replace the reference to a regulation with a reference to a code section (Section 4341) that governs the same issue.³ Thus:

3407. (a) The commission may require that any fish, bird, or mammal taken in a wildlife habitat enhancement and management area licensed pursuant to this article be marked for identification with a distinctive tag or seal issued by the department prior to being removed from the area.

(b) A deer tag shall be countersigned by a person ~~who is authorized to countersign deer tags pursuant to Section 372 of Title 14 of the California Code of Regulations~~ authorized to do so by Section 4341.

3. Section 4341 reads as follows:

Any person legally killing a deer in this state shall have the tag countersigned by a person employed in the department, a person designated for this purpose by the commission, or by a notary public, postmaster, postmistress, peace officer, or an officer authorized to administer oaths, before transporting such deer, except for the purpose of taking it to the nearest person authorized to countersign the tag, on the route being followed from the point where the deer is taken.

(c) Any fish, bird, or mammal so identified may be possessed and transported at any time during the period for which the tag or seal is valid.

(d) The fees for tags and seals shall be established by the commission in amounts which, in conjunction with fees collected pursuant to Section 3402, are calculated to meet the actual costs incurred by the department in administering all aspects of the habitat enhancement and management program.

Comment. Section 3407 is amended to correct and clarify an erroneous cross-reference.

The section is also amended to add subdivision designations.

The staff recommends that this proposed revision of Section 3407 be included in the final recommendation in this study.

Discussion with Office of the Legislative Counsel

As noted elsewhere, the Assembly Committee on Water, Parks, and Wildlife has agreed to introduce a committee bill to implement the recommendation discussed here.⁴ The staff has been working with a Deputy Legislative Counsel to prepare a bill draft for that purpose.

The Deputy has been very thorough and has pointed out a number of issues that should be resolved with further technical revision. The staff is grateful for his careful work, which will improve the bill.

The additional proposed revisions are presented in the second Exhibit attached to this memorandum. In order to differentiate the newly proposed revisions from those that were in the prior version of the language, the new changes are highlighted with gray shading.

The staff recommends that these additional revisions be included in the final recommendation in this study, to address the issues that have been raised.

Deletion of Two Proposed Revisions from Final Recommendation

In evaluating whether any revision proposed in this study required conforming revision of any other code sections, the staff discovered that the revision of Section 7852 would require proposing a number of conforming revisions of other code sections. Several of the needed conforming revisions have proved to be unusually complicated, and implementation poses a risk of causing substantive change to one or more of the sections requiring revision.

4. See Memorandum 2023-9.

Given the nonsubstantive nature of this study, the staff believes the better course of action would be to delete the proposed revision of Section 7852 from the recommendation. That deletion would also dictate deletion of a proposed revision of Section 7852.27, which had been included in the recommendation only to conform its text to the proposed revision of Section 7852.

For the reasons indicated above, the staff recommends that proposed revisions of Sections 7852 and 7852.27 not be included in the final recommendation in this study.

Subordination Clause

The Deputy Legislative Counsel also inquired of staff whether to include a “subordination clause” in the bill. A subordination clause provides that the bill will yield to any other bill to the extent of any conflict. The use of a subordination clause is common in large technical omnibus legislation (like the annual Maintenance of the Codes bill). It avoids the need for technical conflict coordination, which can be burdensome in a large bill.

The staff provisionally approved inclusion of the subordination clause. **Is that acceptable?**

APPROVAL OF RECOMMENDATION

The Commission needs to decide (1) whether to approve the attached narrative (with or without changes) and (2) whether to approve the changes to the proposed legislation that are described above. With those decisions made, the staff will assemble the complete recommendation for publication and submission to the Governor and Legislature.

Respectfully submitted,

Steve Cohen
Staff Counsel

FISH AND GAME CODE CLEAN-UP

1 In 2010, the Legislature directed the Secretary of the Natural Resources Agency
2 to convene a committee to develop and submit a “strategic vision” for the Fish and
3 Game Commission and the Department of Fish and Game (now the Department of
4 Fish and Wildlife).¹ The resulting report recommended, among other things, that the
5 Law Revision Commission be tasked with cleaning up the Fish and Game Code by
6 doing all of the following:

7 (1) resolve inconsistencies; (2) eliminate redundancies; (3) eliminate unused and
8 outdated code sections; (4) consolidate sections creating parallel systems and
9 processes; and (5) restructure codes to group similar statutes and regulations.²

10 In 2012, the Legislature acted on that recommendation, authorizing the
11 Commission to conduct the requested study:

12 [The] Legislature approves for study by the California Law Revision
13 Commission the new topic listed below:

14 Whether the Fish and Game Code and related statutory law should be revised to
15 improve its organization, clarify its meaning, resolve inconsistencies, eliminate
16 unnecessary or obsolete provisions, standardize terminology, clarify program
17 authority and funding sources, and make other minor improvements, without
18 making any significant substantive change to the effect of the law[.]³

19 In order to achieve the greatest degree of improvement to the organization and
20 expression of the Fish and Game Code, the Commission decided to prepare a
21 recommendation that would repeal the existing code and replace it with a new Fish
22 and Wildlife Code. The new code would continue the entire substance of the former
23 code with a more user-friendly organization, without making any significant
24 substantive change to the effect of existing law. In the process of preparing the
25 proposed new code, the Commission would identify technical problems of the type
26 described above (e.g., ambiguity, redundancy, inconsistency) and prepare language

1. 2010 Cal. Stat. ch. 424.

2. See *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies*, A13 (April 2012).

3. 2012 Cal. Stat. res. ch. 108.

1 to cure them.⁴ There were no objections to that general approach from the affected
2 agencies.⁵

3 In conducting its work, the Commission identified some technical defects that
4 could be addressed immediately, without waiting until the entire recodification draft
5 had been completed. Two omnibus recommendations were approved to address
6 those issues.⁶ Both proposals were enacted into law.⁷

7 In 2018, the Commission released a tentative recommendation proposing the new
8 Fish and Wildlife Code.⁸ The original deadline for public comment on the proposed
9 law was January 1, 2020. The deadline for comment on technical revisions was later
10 extended by another year, and the deadline for comment on organizational changes
11 was extended by 18 months, at the request of the Department of Fish and Wildlife.⁹

12 In January 2021, the Fish and Game Commission and Department of Fish and
13 Wildlife provided written comments on a large number of the technical revisions
14 that were proposed in the tentative recommendation. This recommendation is
15 substantially informed by that input.

16 In June 2021, the Department of Fish and Wildlife informed the Commission that
17 it would not support the proposed reorganization of the Fish and Wildlife Code. It

4. Early in its study of the Fish and Game Code, the Commission identified the potential for ambiguity in the definition of “fish.” See Fish & Game Code § 45. As defined, the term includes animals that are not classified zoologically as fish (i.e., invertebrates and amphibians). This creates some uncertainty, because the statutory definition is not necessarily intended to apply to every provision that uses the term “fish.” See Fish & Game Code § 2. Courts have held that Section 45 applies to the California Endangered Species Act. See *Almond All. of California v. Fish & Game Comm’n* (2022) 79 Cal.App.5th 337, 366, 294 Cal.Rptr.3d 603 *republished with additional material* at 2022 WL 4374847 (Cal. Ct. App. May 31, 2022), *rev. denied* (Sept. 21, 2022); *California Forestry Assn. v. Fish & Game Comm’n* (2007) 156 Cal.App.4th 1535, 68 Cal.Rptr.3d 391. But there are over 600 other Fish and Game Code sections that use the term “fish.” The Commission agrees with stakeholder comments that it is impossible to determine the intended meaning of the term in all of these sections without a significant risk of inadvertent substantive change. Because the Commission’s authority in this study prohibits proposing any significant substantive changes, the Commission decided against attempting to clarify the meaning of “fish.” See Memorandum 2013-12, pp. 5-6 *available at* <http://clrc.ca.gov/pub/2013/MM13-12.pdf>.

5. See, e.g., Second Supplement to CLRC Staff Memorandum 2013-11, *available at* <http://clrc.ca.gov/pub/2013/MM13-11s2.pdf>; CLRC Staff Memorandum 2013-30, *available at* <http://clrc.ca.gov/pub/2013/MM13-30.pdf>; CLRC Staff Memorandum 2013-31, *available at* <http://clrc.ca.gov/pub/2013/MM13-31.pdf>; First Supplement to CLRC Staff Memorandum 2013-37, *available at* <http://clrc.ca.gov/pub/2013/MM13-37s1.pdf>; CLRC Staff Memorandum 2013-49, *available at* <http://clrc.ca.gov/pub/2013/MM13-49.pdf>; First Supplement to CLRC Staff Memorandum 2013-50, *available at* <http://clrc.ca.gov/pub/2013/MM13-50s1.pdf>.

6. See *Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part 1)*, 44 Cal. L. Revision Comm’n Reports 115 (2015); *Fish and Game Law: Technical Revisions and Minor Substantive Improvements (Part 2)*, 44 Cal. L. Revision Comm’n Reports 349 (2015).

7. See 2015 Cal. Stat. ch. 154; 2016 Cal. Stat. ch. 546.

8. See Tentative Recommendation on Fish and Wildlife Code (Dec. 2018), *available at* <http://clrc.ca.gov/pub/Misc-Report/TR-R100-Full.pdf>.

9. See CLRC Staff Memorandum 2019-44, Exhibit pp. 1-2, *available at* <http://www.clrc.ca.gov/pub/2019/MM19-44.pdf>.

1 explained its view that reorganization would be “likely to result in confusion at best,
2 and at worst, a Code that is difficult to use and not supported by the department that
3 is charged with its administration and enforcement.”¹⁰

4 The Commission considered restructuring its work on organizational
5 improvement, to minimize the transitional costs and other disadvantages that occur
6 when any body of existing statutory law is reorganized. Rather than enacting an
7 entirely new code, the Commission considered preparing a series of targeted
8 reorganization proposals, to improve the organization of disordered parts of the
9 existing Fish and Game Code.¹¹ Such incremental improvement would reduce the
10 transitional disruption, by implementing it in a series of smaller reforms.

11 The Department of Fish and Wildlife did not support that alternative approach,
12 making clear that it would not support any Commission work to reorganize the Fish
13 and Game Code. Nor would it provide any assistance, if the Commission were to
14 proceed with such work.¹² A variety of stakeholder groups wrote jointly to endorse
15 the Department of Fish and Wildlife’s position.¹³ No stakeholder group wrote in
16 support of reorganization.

17 Given that input, the Commission decided to set aside its efforts to improve the
18 organization of the code. That decision was based on a combination of deference to
19 the Department of Fish and Wildlife as the agency charged with administration of
20 the Fish and Game Code and practical recognition that an effort to improve the
21 organization of the Fish and Game Code would likely fail without the support and
22 assistance of the Department of Fish and Wildlife and faced with coordinated
23 opposition by stakeholders.¹⁴

24 This recommendation proposes technical revisions to existing sections within the
25 Fish and Game Code. It does not recommend any changes to the organization of the
26 Fish and Game Code.

10. See, e.g., CLRC Staff Memorandum 2021-33, available at <http://clrc.ca.gov/pub/2021/MM21-33.pdf>.

11. See, e.g., CLRC Staff Memorandum 2022-30, available at <http://clrc.ca.gov/pub/2022/MM22-30.pdf>; First Supplement to CLRC Staff Memorandum 2022-30, available at <http://clrc.ca.gov/pub/2022/MM22-30s1.pdf>.

12. See, e.g., Fifth Supplement to CLRC Staff Memorandum 2022-30, available at <http://clrc.ca.gov/pub/2022/MM22-30s5.pdf>.

13. See, e.g., Third Supplement to CLRC Staff Memorandum 2022-30 available at <http://clrc.ca.gov/pub/2022/MM22-30s3.pdf>; Fourth Supplement to CLRC Staff Memorandum 2022-30 available at <http://clrc.ca.gov/pub/2022/MM22-30s4.pdf>.

14. Early in this study the Commission adopted a posture of deference to the Fish and Game Commission and Department of Fish and Wildlife on matters of administration of fish and game law. See, e.g., CLRC Staff Memorandum 2013-30 available at <http://clrc.ca.gov/pub/2013/MM13-30.pdf>.

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FISH AND GAME CODE

1 **Fish & Game Code § 70 (amended). “Resident”**

2 SEC. _____. Section 70 of the Fish and Game Code is amended to read:

3 70. “Resident” means any person who has resided continuously in the State of
4 California for six months or more immediately prior to the date of his application
5 for a license or permit, any person on active military duty with the Armed Forces of
6 the United States or auxiliary branch thereof, or any person enrolled in the Job Corps
7 established pursuant to former Section 2883 of Title 29 of the United States Code.

8 **Comment.** Section 70 is amended to clarify a cross-reference to a repealed section of the United
9 States Code, and make the section gender neutral.

10 **Fish & Game Code § 315.3 (amended). Opening identified waters to take**

11 SEC. _____. Section 315.3 of the Fish and Game Code is amended to read:

12 315.3. The commission may, ~~at any time when facts are presented to the~~
13 ~~commission which were not presented to the commission at the time of its December~~
14 ~~meeting held pursuant to Section 209,~~ open any stream, lake, or other inland waters,
15 ~~or portions thereof or part of any stream, lake, or other inland waters,~~ to the taking
16 of any species or subspecies of fish for the proper utilization of the fish, for ~~such~~
17 ~~time as~~ an amount of time specified by the commission may designate, or until ~~such~~
18 ~~time as~~ new legislation thereon on the matter enacted by the Legislature ~~may~~
19 ~~become~~ becomes effective.

20 **Comment.** Section 315.3 is amended for clarity, and to delete reference to an obsolete procedure.

21 **Fish & Game Code § 356 (amended). Commission regulations relating to migratory birds**

22 SEC. _____. Section 356 of the Fish and Game Code is amended to read:

23 356. (a) Migratory game birds may be taken in conformity with the federal laws
24 and regulations and the regulations of the commission ~~as provided in Section 355~~
25 ~~adopted pursuant to this article.~~

26 (b) In the event no regulations are prescribed by the proper federal agency, the
27 commission may determine and fix the area or areas, the seasons and hours, the
28 species, the bag and possession limits, and the total number that may be taken during
29 any open season for the taking of migratory game birds, under ~~such~~ rules and
30 regulations as adopted by the commission may prescribe. ~~Such~~ The rules and
31 regulations ~~as the commission may prescribe~~ shall have the same effect as if enacted
32 by the Legislature.

33 **Comment.** Section 356 is amended to clarify the intended meaning of the section for clarity. The
34 section is also amended to add subdivision designations.

35 **Fish & Game Code § 456 (amended). Deer management**

36 SEC. _____. Section 456 of the Fish and Game Code is amended to read:

1 456. The department shall biennially report to the Legislature and to the ~~Fish and~~
2 ~~Game Commission~~ commission on the progress that is being made toward the
3 restoration and maintenance of California's deer herds. ~~The first report shall be~~
4 ~~submitted on or before October 1, 1989.~~ The report shall include program activities
5 regarding deer habitat, particularly addressing problems dealing with identification
6 and preservation of critical deer habitat areas; the amount of revenue derived from
7 the sale of deer tags during the two previous fiscal years; a list of expenditures
8 during the two previous fiscal years and proposed expenditures during the current
9 fiscal year; and a report of general benefits accrued to the deer resources as a result
10 of the program.

11 **Comment.** Section 456 is amended to delete obsolete material, and make a technical correction.

12 **Fish & Game Code § 711.4 (amended). Exceptions to CEQA filing fee**

13 SEC. ____ . Section 711.4 of the Fish and Game Code is amended to read:

14 711.4. (a) The department shall impose and collect a filing fee in the amount
15 prescribed in subdivision (d) to defray the costs of managing and protecting fish and
16 wildlife trust resources, including, but not limited to, consulting with other public
17 agencies, reviewing environmental documents, recommending mitigation
18 measures, developing monitoring requirements for purposes of the California
19 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
20 Public Resources Code), consulting pursuant to Section 21104.2 of the Public
21 Resources Code, and other activities protecting those trust resources identified in
22 the review pursuant to the California Environmental Quality Act.

23 (b) The filing fees shall be proportional to the cost incurred by the department and
24 shall be annually reviewed and adjustments recommended to the Legislature in an
25 amount necessary to pay the full costs of department programs as specified. The
26 department shall annually adjust the fees pursuant to Section 713.

27 (c)(1) All project applicants and public agencies subject to the California
28 Environmental Quality Act shall pay a filing fee for each proposed project, as
29 specified in subdivision (d).

30 (2) Notwithstanding paragraph (1), a filing fee shall not be paid pursuant to this
31 section if any of the following conditions exist:

32 (A) The project has no effect on fish and wildlife.

33 (B) The project is being undertaken by the department.

34 (C) The project costs are payable by the department from any of the following
35 sources that are held by the department:

36 (i) The Public Resources Account in the Cigarette and Tobacco Products Surtax
37 Fund.

38 (ii) The California Wildlife, Coastal, and Park Land Conservation Fund of 1988.

39 (iii) The Habitat Conservation Fund.

40 (iv) The Fisheries Restoration Account in the Fish and Game Preservation Fund.

41 (v) The Commercial Salmon Stamp Dedicated Subaccount in the Fish and Game
42 Preservation Fund.

1 ~~(vi) Striped bass stamp funds collected pursuant to Section 7360.~~

2 ~~(vii)~~ (vi) The California Ocean Resource Enhancement Account.

3 (D) The project is implemented by the department through a contract with either
4 a nonprofit entity or a local government agency.

5 (3) Filing fees shall be paid at the time and in the amount specified in subdivision
6 (d). Notwithstanding Sections 21080.5 and 21081 of the Public Resources Code, a
7 project shall not be operative, vested, or final, and local government permits for the
8 project shall not be valid, until the filing fees required pursuant to this section are
9 paid.

10 (d) The fees shall be in the following amounts:

11 (1) For a project that is statutorily or categorically exempt from the California
12 Environmental Quality Act, including those certified regulatory programs that
13 incorporate statutory and categorical exemptions, a filing fee shall not be paid.

14 (2) For a project for which a negative declaration is prepared pursuant to
15 subdivision (c) of Section 21080 of the Public Resources Code, the filing fee is one
16 thousand eight hundred dollars (\$1,800). A local agency collecting the filing fee
17 shall remit the fee to the county clerk at the time of filing a notice of determination
18 pursuant to Section 21152 of the Public Resources Code. A state agency collecting
19 the filing fee shall remit the fee to the Office of Planning and Research at the time
20 of filing a notice of determination pursuant to Section 21108 of the Public Resources
21 Code.

22 (3) For a project with an environmental impact report prepared pursuant to the
23 California Environmental Quality Act, the filing fee is two thousand five hundred
24 dollars (\$2,500). A local agency collecting the filing fee shall remit the fee to the
25 county clerk at the time of filing a notice of determination pursuant to Section 21152
26 of the Public Resources Code. A state agency collecting the filing fee shall remit the
27 fee to the Office of Planning and Research at the time of filing a notice of
28 determination pursuant to Section 21108 of the Public Resources Code.

29 (4) For a project that is subject to a certified regulatory program pursuant to
30 Section 21080.5 of the Public Resources Code, the filing fee is eight hundred fifty
31 dollars (\$850). The filing fee shall be paid to the department before the filing of the
32 notice of determination pursuant to Section 21080.5 of the Public Resources Code.

33 (e) The county clerk may charge a documentary handling fee of fifty dollars (\$50)
34 per filing in addition to the filing fee specified in subdivision (d).

35 (1) The county clerk of each county and the Office of Planning and Research shall
36 maintain a record, both electronic and in paper, of all environmental documents
37 received. The record shall include, for each environmental document received, the
38 name of each applicant or lead agency, the document filing number, the project
39 name as approved by the lead agency, and the filing date. The record shall be made
40 available for examination or audit by authorized personnel of the department during
41 normal business hours.

42 (2) The filing fee imposed and collected pursuant to subdivision (d) shall be
43 remitted monthly to the department within 30 days after the end of each month. The

1 remittance shall be accompanied with the information required pursuant to
2 paragraph (1). The amount of fees due shall be reported on forms prescribed and
3 provided by the department.

4 (3) The department shall assess a penalty of 10 percent of the amount of fees due
5 for a failure to remit the amount payable when due. The department may pursue
6 collection of delinquent fees through the Controller's office pursuant to Section
7 12419.5 of the Government Code.

8 (f) Notwithstanding subdivision (a) of Section 12000, failure to pay the fee under
9 subdivision (d) is not a misdemeanor. All unpaid fees are a statutory assessment
10 subject to collection under procedures as provided in the Revenue and Taxation
11 Code.

12 (g) Only one filing fee shall be paid for each project unless the project is tiered or
13 phased, or separate environmental documents are required.

14 (h) This section does not preclude or modify the duty of the department to
15 recommend, require, permit, or engage in mitigation activities pursuant to the
16 California Environmental Quality Act.

17 (i) The permit process of the California Coastal Commission, as certified by the
18 Secretary of the Resources Agency, is exempt from the payment of the filing fees
19 prescribed by paragraph (4) of subdivision (d) insofar as the permits are issued under
20 any of the following regulations:

21 (1) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5
22 of Title 14 of the California Code of Regulations.

23 (2) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing
24 with Section 13213), ~~Subchapter 3.5 (commencing with Section 13214)~~, Subchapter
25 4 (commencing with Section 13215), Subchapter 4.5 (commencing with Section
26 13238), Subchapter 5 (commencing with Section 13240), Subchapter 6
27 (commencing with Section 13250), and Subchapter 8 (commencing with Section
28 13255.0) of Chapter 6 of Division 5.5 of Title 14 of the California Code of
29 Regulations.

30 **Comment.** Subparagraph (vi) of subdivision (c)(2)(C) of Section 711.4 is deleted to reflect the
31 repeal of the statutory cross-reference in the provision, and the discontinuation of the referenced
32 collection of funds.

33 Subdivision (f) is amended to clarify a statutory cross-reference.

34 Subdivision (i) is amended to delete an obsolete cross-reference.

35 **Fish & Game Code § 1500.5 (amended). Mineral rights**

36 SEC. ____ . Section 1500.5 of the Fish and Game Code is amended to read:

37 1500.5. ~~With respect to exchanging or selling any~~ (a) The following rules govern
38 an exchange or sale of property pursuant to Section 1500, the director, with respect
39 to any parcel containing :

40 (1) If a parcel contains 15 acres or less, the director shall except and reserve to the
41 state all mineral deposits, as defined in Section 6407 of the Public Resources Code,

1 below a depth of 500 feet, without surface rights of entry. ~~As to any parcel~~
2 ~~containing~~

3 (2) If a parcel contains more than 15 acres, the director shall except and reserve
4 to the state all mineral deposits, ~~as defined in Section 6407 of the Public Resources~~
5 ~~Code~~, together with the right rights to prospect for, mine, and remove the ~~deposits.~~
6 ~~—The deposits.~~ The rights to prospect for, mine, and remove shall be limited to
7 those areas of the property conveyed ~~which~~ that the director, after consultation with
8 the State Lands Commission, determines to be reasonably necessary for the removal
9 of the resources and deposits.

10 (b) For the purposes of this section, the mineral deposits reserved to the state are
11 those described in Section 6407 of the Public Resources Code.

12 **Comment.** Section 1500.5 is amended for clarity.

13 The section is also amended to add subdivision and paragraph designations.

14 **Fish & Game Code § 1913 (amended). Exemptions**

15 SEC. ____ . Section 1913 is added to the Fish and Game Code, to read:

16 1913. (a) The provisions of this chapter are not intended and shall not be construed
17 as authorizing any public agency to mandate, prescribe, or otherwise regulate
18 agricultural operations or management practices, including the clearing of land for
19 agricultural practices or fire control measures.

20 (b) Notwithstanding the provisions of Section 1911, timber operations in
21 accordance with a timber harvesting plan submitted pursuant to the provisions of
22 the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with
23 Section 4511) of Part 2 of Division 4 of the Public Resources Code), or required
24 mining assessment work pursuant to federal or state mining laws, or the removal of
25 endangered or rare native plants from a canal, lateral ditch, building site, or road, or
26 other right-of-way by the owner of the land or ~~his~~ the owner's agent, or the
27 performance by a public agency or a publicly or privately owned public utility of its
28 obligation to provide service to the public, shall not be restricted by this chapter
29 because of the presence of rare or endangered plants, except as provided in
30 subdivision (c) of this section.

31 (c) Notwithstanding the provisions of subdivisions (a) and (b) of this section,
32 where the owner of land has been notified by the department pursuant to Section
33 ~~1903.5~~ 1904 that a rare or endangered native plant is growing on ~~such~~ that land, the
34 owner shall notify the department at least 10 days in advance of changing the land
35 use to allow for salvage of ~~such~~ that plant. The failure by the department to salvage
36 ~~such~~ that plant within 10 days of notification shall entitle the owner of the land to
37 proceed without regard to this chapter. Submission of a timber harvesting plan
38 pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing
39 with Section 4511) of Part 2 of Division 4 of the Public Resources Code) shall
40 constitute notice under this section. Converting from one type of agricultural use, as
41 defined in Section 51201 of the Government Code, to another type of agricultural
42 use shall not constitute a change in land use.

1 **Comment.** ~~Subdivision (e) of Section 1913 is amended to correct an erroneous cross-reference~~
2 ~~two erroneous cross-references, and make other technical corrections.~~

3 **Fish & Game Code § 2021 (amended). Shark fin**

4 SEC. ____ . Section 2021 of the Fish and Game Code is amended to read:

5 2021. (a) As used in this section “shark fin” means the raw, dried, or otherwise
6 processed detached fin, or the raw, dried, or otherwise processed detached tail, of
7 an elasmobranch.

8 (b) Except as otherwise provided in subdivisions ~~(e), (d), and (e)~~ (c) and (d), it
9 shall be unlawful for any person to possess, sell, offer for sale, trade, or distribute a
10 shark fin.

11 (c) Any person who holds a license or permit pursuant to Section 1002 may
12 possess a shark fin or fins consistent with that license or permit.

13 (d) Any person who holds a license or permit issued by the department to take or
14 land sharks for recreational or commercial purposes may possess a shark fin or fins
15 consistent with that license or permit.

16 ~~(e) Before January 1, 2013, any restaurant may possess, sell, offer for sale, trade,~~
17 ~~or distribute a shark fin possessed by that restaurant, as of January 1, 2012, that is~~
18 ~~prepared for consumption.~~

19 **Comment.** Section 2021 is amended to delete obsolete material.

20 **Fish & Game Code § 2074.6 (amended). Department review**

21 SEC. ____ . Section 2074.6 of the Fish and Game Code is amended to read:

22 2074.6. (a) ~~The~~ If the Commission accepts a petition for consideration, the
23 department shall promptly commence a review of the status of the species concerned
24 in the petition.

25 (b) Within 12 months of the date of publication of a notice of acceptance of a
26 petition for consideration pursuant to paragraph (2) of subdivision (e) of Section
27 2074.2, the department shall produce and make publicly available on the
28 department’s Internet Web site a final written peer reviewed report, based upon the
29 best scientific information available to the department, which indicates whether the
30 petitioned action is warranted, which includes a preliminary identification of the
31 habitat that may be essential to the continued existence of the species, and which
32 recommends management activities and other recommendations for recovery of the
33 species.

34 (c) Prior to releasing the final written report, the department shall have a draft
35 status review report prepared and independently peer reviewed, and upon receiving
36 the peer reviewers’ input, shall evaluate and respond in writing to the independent
37 peer review and shall amend the draft status review report as appropriate.

38 (d) The revised report shall be posted on the department’s ~~Internet Web site~~
39 internet website for a minimum of 30 days for public review prior to the hearing
40 scheduled pursuant to Section 2075.

1 (e) The commission may grant an extension of up to six months if the director
2 determines an extension is necessary to complete independent peer review of the
3 report, and to provide a minimum of 30 days for public review of the peer reviewed
4 report prior to the public hearing specified in Section 2075.

5 **Comment.** Subdivision (a) of Section 2074.6 is amended to clarify the application of the section.
6 The section is also amended to add subdivision designations and make a technical change.

7 **Fish & Game Code § 2081.2 (amended). Permit application fee**

8 SEC. _____. Section 2081.2 of the Fish and Game Code is amended to read:

9 2081.2. (a) For purposes of this section, the following terms have the following
10 meanings:

11 (1) “Permit” means any authorization issued by the department pursuant to this
12 article to take a species listed by this chapter as candidate, threatened, or
13 endangered. The term includes a consistency determination pursuant to Section
14 2080.1 and a concurrence determination pursuant to Section 2080.3 or 2080.4.

15 (2) “Permit application” means an application for a permit, an amendment to a
16 permit, or a renewal of a permit. The term includes a consistency determination
17 request pursuant to Section 2080.1 and a concurrence determination request
18 pursuant to Section 2080.3 or 2080.4.

19 (3) “Permittee” includes any individual, firm, association, organization,
20 partnership, business, trust, corporation, limited liability company, district, city,
21 county, city and county, town, federal agency, and the state who applies for or who
22 has received a permit pursuant to this article.

23 (4) “Project” has the same meaning as defined in Section 21065 of the Public
24 Resources Code.

25 (5) “Project cost” means the total direct and indirect project expenses that include,
26 but are not limited to, labor, equipment, permanent materials and supplies,
27 subcontracts, overhead, and miscellaneous costs. The term shall not include permit
28 or license expenses or mitigation costs. For purposes of this paragraph, the term
29 “permit” includes, but is not limited to, a permit as defined in paragraph (1).

30 (6) “Voluntary habitat restoration project” means a project that meets both of the
31 following requirements:

32 (A) The project’s primary purpose is voluntary habitat restoration and the project
33 may have other environmental benefits, and the project is not required as mitigation
34 due to a regulatory action.

35 (B) The project is not part of a regulatory settlement, a regulatory enforcement
36 action, or a court order.

37 (b)(1) The department shall collect a permit application fee for processing a
38 permit application submitted pursuant to this article at the time the permit
39 application is submitted to the department. ~~Notwithstanding Section 2098, upon~~
40 Upon appropriation to the department from the Endangered Species Permitting
41 Account, the department shall use the permit application fee to pay for all or a

1 portion of the department's cost of processing permit applications, permit
2 development, and compliance monitoring pursuant to this article.

3 (2) This subdivision does not apply to any of the following:

4 (A) Activities or costs associated with the review of projects, inspection and
5 oversight of projects, and permits necessary to conduct timber operations, as defined
6 in Section 4527 of the Public Resources Code, in accordance with Article 9.5
7 (commencing with Section 4629) of Chapter 8 of Part 2 of Division 4 of the Public
8 Resources Code.

9 (B) Permits or memoranda of understanding authorized by subdivision (a) of
10 Section 2081.

11 (C) Permits for voluntary habitat restoration projects.

12 (c) The department shall assess the permit application fee as follows, subject to
13 subdivision (f):

14 (1) For a project, regardless of estimated project cost, that is subject only to
15 Section 2080.1, 2080.3, or 2080.4, the department shall assess either of the
16 following amounts:

17 (A) Seven thousand five hundred dollars (\$7,500).

18 (B) Six thousand dollars (\$6,000), if the project uses a department-approved
19 conservation or mitigation bank to fulfill mitigation obligations pursuant to this
20 article.

21 (2) For a project where the estimated project cost is less than one hundred
22 thousand dollars (\$100,000), the department shall assess either of the following
23 amounts:

24 (A) Seven thousand five hundred dollars (\$7,500).

25 (B) Six thousand dollars (\$6,000), if the project uses a department-approved
26 conservation or mitigation bank to fulfill mitigation obligations pursuant to this
27 article.

28 (3) For a project where the estimated project cost is one hundred thousand dollars
29 (\$100,000) or more but less than five hundred thousand dollars (\$500,000), the
30 department shall assess either of the following amounts:

31 (A) Fifteen thousand dollars (\$15,000).

32 (B) Twelve thousand dollars (\$12,000), if the project uses a department-approved
33 conservation or mitigation bank to fulfill mitigation obligations pursuant to this
34 article.

35 (4) For a project where the estimated project cost is five hundred thousand dollars
36 (\$500,000) or more, the department shall assess either of the following amounts:

37 (A) Thirty thousand dollars (\$30,000).

38 (B) Twenty-four thousand dollars (\$24,000), if the project uses a department-
39 approved conservation or mitigation bank to fulfill mitigation obligations pursuant
40 to this article.

41 (5) The department shall collect a fee of seven thousand five hundred dollars
42 (\$7,500) for processing permit amendments that the department has determined are
43 minor as defined in regulation or fifteen thousand dollars (\$15,000) for processing

1 permit amendments that the department has determined are major as defined in
2 regulation.

3 (d)(1) If the permit application fee paid pursuant to subdivision (c) is determined
4 by the department to be insufficient to complete permitting work due to the
5 complexity of a project or the potential effects of a project, the department shall
6 collect an additional fee of up to ten thousand dollars (\$10,000) from the permittee
7 to pay for its estimated costs. Upon its determination, the department shall notify
8 the permittee of the reasons why an additional fee is necessary and the estimated
9 amount of the additional fee.

10 (2) The additional fee collected pursuant to paragraph (1) shall not exceed an
11 amount that, when added to the fee paid pursuant to subdivision (c), equals thirty-
12 five thousand dollars (\$35,000). The department shall collect the additional fee
13 before a final decision on the permit application by the department.

14 (e)(1) For a permit application submitted to the department pursuant to this article
15 on or after ~~the effective date of this section~~ September 13, 2016, the department
16 shall collect the permit application fee at the time the permit application is
17 submitted. The department shall not deem the permit application complete until it
18 has collected the permit application fee. A permit application submitted or deemed
19 complete before ~~the effective date of this section~~ September 13, 2016, shall not be
20 subject to fees established pursuant to this section.

21 (2) If a permit application is withdrawn within 30 days after paying the permit
22 application fee, the department shall refund any unused portion of the fee to the
23 permittee.

24 (3) If a permit application is withdrawn after 30 days of paying the permit
25 application fee, the department shall not refund any portion of the fee to the
26 permittee.

27 (f)(1) The department shall adjust the fees in this section pursuant to Section 713.

28 (2) The Legislature finds that all revenues generated under this section and used
29 for the purposes for which they were imposed are not subject to Article XIII B of
30 the California Constitution.

31 (3) The department, at least every five years, shall analyze permit application fees
32 pursuant to Section 713 to ensure the appropriate fee amounts are charged.

33 (g) Fees paid to the department pursuant to this section shall be deposited in the
34 Endangered Species Permitting Account, which is hereby established in the Fish
35 and Game Preservation Fund. ~~Notwithstanding Section 2098, funds Funds~~ in the
36 account shall be available to the department, upon appropriation by the Legislature,
37 for the purposes of administering and implementing this chapter, except that fee
38 moneys collected pursuant to this section shall only be used for the purposes of this
39 article.

40 **Comment.** Paragraph (1) of subdivision (e) of Section 2081.2 is amended for clarity.

41 Subdivisions (b) and (g) are amended to delete an obsolete cross-reference.

1 **Fish & Game Code § 2185 (amended). Notification of law enforcement of arriving wild**
2 **animal**

3 SEC. _____. Section 2185 of the Fish and Game Code is amended to read:

4 2185. (a) Any person who transports, receives, or imports into the State state, or
5 transports within the State state, any live wild animal enumerated in or designated
6 pursuant to Section 2118, shall hold said that animal in confinement for inspection
7 and immediately notify the nearest enforcing officer of the animal's arrival thereof.
8 If there is found in any shipment any species not specified in the permit issued under
9 this chapter, or more than the number of any species specified, said those animals
10 shall be refused admittance as provided in Section ~~2188 of this chapter~~ 2189.

11 (b) Notwithstanding Section 2117, for the purposes of this section, “enforcing
12 officer” means the enforcement personnel of the department, the state plant
13 quarantine officers, and county agricultural commissioners.

14 **Comment.** Section 2185 is amended to update an obsolete cross-reference and make other
15 technical corrections.

16 **Fish & Game Code § 3004.5 (amended). Take within California condor range**

17 SEC. _____. Section 3004.5 of the Fish and Game Code, as amended by Section 3
18 of Chapter 469 of the Statutes of 2022, is amended to read:

19 3004.5. (a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by
20 the commission, shall be required when taking big game, as defined in the
21 department’s mammal hunting regulations (~~14 Cal. Code Regs. Section 350 of Title~~
22 14 of the California Code of Regulations), with rifle or pistol, and when taking
23 coyote, within the California condor range.

24 (2) For purposes of this section, “California condor range” means:

25 (A) The department’s deer hunting zone A South, but excluding Santa Cruz,
26 Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of
27 Highway 101 within Santa Clara County, and areas between Highway 5 and
28 Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern
29 Counties.

30 (B) Areas within deer hunting zones D7, D8, D9, D10, D11, and D13.

31 (3) The requirements of this subdivision shall remain in effect in the California
32 condor range unless and until the more restrictive nonlead prohibitions required
33 pursuant to subdivision (b) are implemented.

34 (b) Except as provided in subdivision (j), and as soon as is practicable as
35 implemented by the commission pursuant to subdivision (i), but by no later than
36 July 1, 2019, nonlead ammunition, as determined by the commission, shall be
37 required when taking all wildlife, including game mammals, game birds, nongame
38 birds, and nongame mammals, with any firearm.

39 (c)(1) The commission shall maintain, by regulation, a public process to certify
40 ammunition as nonlead ammunition, and shall define, by regulation, nonlead
41 ammunition as including only ammunition in which there is no lead content,

1 excluding the presence of trace amounts of lead. The commission shall establish and
2 annually update a list of certified ammunition.

3 (2) The list of certified ammunition shall include, but not be limited to, any
4 federally approved nontoxic shotgun ammunition.

5 (d)(1) To the extent that funding is available, the commission shall establish a
6 process that will provide hunters with nonlead ammunition at no or reduced charge.
7 The process shall provide that the offer for nonlead ammunition at no or reduced
8 charge may be redeemed through a coupon sent to a permit holder with the
9 appropriate permit tag. If available funding is not sufficient to provide nonlead
10 ammunition at no charge, the commission shall set the value of the reduced charge
11 coupon at the maximum value possible through available funding, up to the average
12 cost within this state for nonlead ammunition, as determined by the commission.

13 (2) The nonlead ammunition coupon program described in paragraph (1) shall be
14 implemented only to the extent that sufficient funding, as determined by the
15 Department of Finance, is obtained from local, federal, public, or other nonstate
16 sources in order to implement the program.

17 ~~(3) If the nonlead ammunition coupon program is implemented, the commission~~
18 ~~shall issue a report on the usage and redemption rates of ammunition coupons. The~~
19 ~~report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued~~
20 ~~by June of the following year.~~

21 ~~(e) The commission shall issue a report on the levels of lead found in California~~
22 ~~condors. This report shall cover calendar years 2008, 2009, and 2012. Each report~~
23 ~~shall be issued by June of the following year.~~

24 ~~(f) (e)~~ The department shall notify those hunters who may be affected by this
25 section.

26 ~~(g) (f)~~ A person who violates any provision of this section is guilty of an infraction
27 punishable by a fine of five hundred dollars (\$500). A second or subsequent offense
28 shall be punishable by a fine of not less than one thousand dollars (\$1,000) or more
29 than five thousand dollars (\$5,000).

30 ~~(h) (g)~~ This section does not apply to government officials or their agents when
31 carrying out a statutory duty required by law.

32 ~~(i) (h)~~ The commission shall promulgate regulations by July 1, 2015, that phase
33 in the requirements of this section. The requirements of this section shall be fully
34 implemented statewide by no later than July 1, 2019. If any of the requirements of
35 this section can be implemented practicably, in whole or in part, in advance of July
36 1, 2019, the commission shall implement those requirements. The commission shall
37 not reduce or eliminate any existing regulatory restrictions on the use of lead
38 ammunition in the California condor range unless or until the additional
39 requirements for use of nonlead ammunition as required by this section are
40 implemented.

41 ~~(j) (i)~~(1) The prohibition in subdivision (b) shall be temporarily suspended for a
42 specific hunting season and caliber upon a finding by the director that nonlead
43 ammunition of a specific caliber is not commercially available from any

1 manufacturer because of federal prohibitions relating to armor-piercing ammunition
2 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
3 States Code.

4 (2) Notwithstanding a suspension pursuant to paragraph (1), nonlead ammunition
5 shall be used when taking big game mammals, nongame birds, or nongame
6 mammals in the California condor range, ~~as defined in subdivision (a).~~

7 ~~(k)~~ (j) This section shall remain in effect only until July 1, 2024, and as of that
8 date is repealed.

9 **Comment.** Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) ~~of Section~~
10 ~~3004.5~~, are deleted as obsolete.

11 The section is also amended to make other technical changes.

12 **Fish & Game Code § 3004.5 (amended). Take within California condor range**

13 SEC. _____. Section 3004.5 of the Fish and Game Code, as added by Section 4 of
14 Chapter 469 of the Statutes of 2022, is amended to read:

15 3004.5. (a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by
16 the commission, shall be required when taking big game, as defined in the
17 department's mammal hunting regulations (~~14 Cal. Code Regs. Section 350 of Title~~
18 14 of the California Code of Regulations), with rifle or pistol, and when taking
19 coyote, within the California condor range.

20 (2) For purposes of this section, "California condor range" means:

21 (A) The department's deer hunting zone A South, but excluding Santa Cruz,
22 Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of
23 Highway 101 within Santa Clara County, and areas between Highway 5 and
24 Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern
25 Counties.

26 (B) Areas within deer hunting zones D7, D8, D9, D10, D11, and D13.

27 (3) The requirements of this subdivision shall remain in effect in the California
28 condor range unless and until the more restrictive nonlead prohibitions required
29 pursuant to subdivision (b) are implemented.

30 (b) Except as provided in subdivision (j), and as soon as is practicable as
31 implemented by the commission pursuant to subdivision (i), but by no later than
32 July 1, 2019, nonlead ammunition, as determined by the commission, shall be
33 required when taking all wildlife, including game mammals, exotic game mammals,
34 game birds, nongame birds, and nongame mammals, with any firearm.

35 (c)(1) The commission shall maintain, by regulation, a public process to certify
36 ammunition as nonlead ammunition, and shall define, by regulation, nonlead
37 ammunition as including only ammunition in which there is no lead content,
38 excluding the presence of trace amounts of lead. The commission shall establish and
39 annually update a list of certified ammunition.

40 (2) The list of certified ammunition shall include, but not be limited to, any
41 federally approved nontoxic shotgun ammunition.

1 (d)(1) To the extent that funding is available, the commission shall establish a
2 process that will provide hunters with nonlead ammunition at no or reduced charge.
3 The process shall provide that the offer for nonlead ammunition at no or reduced
4 charge may be redeemed through a coupon sent to a permit holder with the
5 appropriate permit tag. If available funding is not sufficient to provide nonlead
6 ammunition at no charge, the commission shall set the value of the reduced charge
7 coupon at the maximum value possible through available funding, up to the average
8 cost within this state for nonlead ammunition, as determined by the commission.

9 (2) The nonlead ammunition coupon program described in paragraph (1) shall be
10 implemented only to the extent that sufficient funding, as determined by the
11 Department of Finance, is obtained from local, federal, public, or other nonstate
12 sources in order to implement the program.

13 ~~(3) If the nonlead ammunition coupon program is implemented, the commission~~
14 ~~shall issue a report on the usage and redemption rates of ammunition coupons. The~~
15 ~~report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued~~
16 ~~by June of the following year.~~

17 ~~(e) The commission shall issue a report on the levels of lead found in California~~
18 ~~condors. This report shall cover calendar years 2008, 2009, and 2012. Each report~~
19 ~~shall be issued by June of the following year.~~

20 ~~(f) (e)~~ The department shall notify those hunters who may be affected by this
21 section.

22 ~~(g) (f)~~ A person who violates any provision of this section is guilty of an infraction
23 punishable by a fine of five hundred dollars (\$500). A second or subsequent offense
24 shall be punishable by a fine of not less than one thousand dollars (\$1,000) or more
25 than five thousand dollars (\$5,000).

26 ~~(h) (g)~~ This section does not apply to government officials or their agents when
27 carrying out a statutory duty required by law.

28 ~~(i) (h)~~ The commission shall promulgate regulations by July 1, 2015, that phase
29 in the requirements of this section. The requirements of this section shall be fully
30 implemented statewide by no later than July 1, 2019. If any of the requirements of
31 this section can be implemented practicably, in whole or in part, in advance of July
32 1, 2019, the commission shall implement those requirements. The commission shall
33 not reduce or eliminate any existing regulatory restrictions on the use of lead
34 ammunition in the California condor range unless or until the additional
35 requirements for use of nonlead ammunition as required by this section are
36 implemented.

37 ~~(j) (i)~~(1) The prohibition in subdivision (b) shall be temporarily suspended for a
38 specific hunting season and caliber upon a finding by the director that nonlead
39 ammunition of a specific caliber is not commercially available from any
40 manufacturer because of federal prohibitions relating to armor-piercing ammunition
41 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
42 States Code.

(2) Notwithstanding a suspension pursuant to paragraph (1), nonlead ammunition shall be used when taking big game mammals, exotic game mammals, nongame birds, or nongame mammals in the California condor range, ~~as defined in subdivision (a).~~

~~(k)~~ (j) This section shall become operative on July 1, 2024.

Comment. Paragraph (3) of subdivision (d) of Section 3004.5, and subdivision (e) ~~of Section 3004.5~~, are deleted as obsolete.

The section is also amended to make other technical changes.

Fish & Game Code § 3200 (amended). License requirement

SEC. _____. Section 3200 of the Fish and Game Code is amended to read:

3200. Any person engaged in raising or importing, or who keeps in captivity, in this state domesticated game birds or domesticated game mammals which normally exist in the wild in this state shall procure a domesticated game breeder's license if the birds or mammals are kept more than 30 days after acquisition. No license is, however, required of any of the following:

(a) Licensed pheasant clubs, ~~except to the extent provided in Section 3283.~~

(b) Licensed domesticated migratory game bird shooting areas as defined in Article 4 (commencing with Section 3300) of Chapter 2 of Part 1 of Division 4.

(c) Keepers of hotels, restaurants, boardinghouses, or clubs serving the meat of those birds or mammals for actual consumption on the premises.

(d) Retail meat dealers selling ~~such that~~ meat to customers for actual consumption.

(e) Public zoological gardens possessing those birds or mammals for exhibition purposes or for the purpose of disposing of the birds or mammals by sale, exchange, or donation to other public zoological gardens.

Comment. Subdivision (a) of Section 3200 is amended to delete a cross-reference to a repealed code section.

Subdivision (d) is amended to make a technical correction.

Fish & Game Code § 3961 (amended). Seizure or dispatch generally

SEC. _____. Section 3961 of the Fish and Game Code is amended to read:

3961. (a) Whenever an employee of the department is not present to carry out the provisions of Section 3960 with respect to any dog inflicting injury or immediately threatening to inflict injury to any deer, elk, or prong-horned antelope during the closed season for these mammals, any property owner, lessee, person holding a permit for the purpose of grazing livestock, or ~~his or her~~ their employee, may seize or dispatch the dog if it is found on ~~his or her~~ their land or premises without the permission of the person who is in immediate possession of the land. If the dog has on it any readily visible identification tag or license tag as prescribed by Section 30951 of the Food and Agricultural Code, and the dog is found in the act of immediately threatening to injure deer, elk, or prong-horned antelope, the dog may only be dispatched under this section if the dog has, and the owner has been notified that the dog has, previously threatened any of these species.

1 (b) No action, civil or criminal, shall be maintained for a dog lawfully seized or
2 dispatched pursuant to this ~~article~~ section.

3 (c) The owner of a dog shall be notified within 72 hours of the seizure or
4 dispatching of that dog under this section if it had the identification tag or license
5 tag which is required pursuant to Section 30951 of the Food and Agricultural Code.

6 **Comment.** Section 3961 is amended to fix an incorrect cross-reference, add subdivision
7 designations, and make the section gender neutral.

8 **Fish & Game Code § 4180.1 (amended). Immature depredator mammal in den**

9 SEC. ____ . Section 4180.1 of the Fish and Game Code is amended to read:

10 4180.1. (a) It is unlawful to ~~use snares, hooks, or~~ do either of the following to an
11 immature depredator mammal while it is in its den:

12 (1) ~~Use a snare, hook, or~~ barbed wire to remove the mammal from the den, or .

13 (2) ~~Use fire to kill the mammal in the den, any immature depredator mammal.~~

14 (b) Nothing in this section shall prohibit the use of fire-ignited gas cartridges or
15 other products registered or permitted under the Federal Insecticide, Fungicide, and
16 Rodenticide, and Fungicide Act (7 U.S.C. ~~435~~ 136 et seq.).

17 **Comment.** Section 4180.1 is amended for clarity, and to correct and update an erroneous
18 reference.

19 The section is also amended to add subdivision and paragraph designations.

20 **Fish & Game Code § 4181.1 (amended). Protection of property**

21 SEC. ____ . Section 4181.1 of the Fish and Game Code is amended to read:

22 4181.1. (a) Any bear that is encountered while in the act of inflicting injury to,
23 molesting, or killing, livestock may be taken immediately by the owner of the
24 livestock or the owner's employee if the taking is reported no later than the next
25 working day to the department and the carcass is made available to the department.

26 (b) Notwithstanding Section 4652, any wild pig that is encountered while in the
27 act of inflicting injury to, molesting, pursuing, worrying, or killing livestock or
28 damaging or destroying, or threatening to immediately damage or destroy, land or
29 other property, including, but not limited to, rare, threatened, or endangered native
30 plants, wildlife, or aquatic species, may be taken immediately by the owner of the
31 livestock, land, or property or the owner's agent or employee, or by an agent or
32 employee of any federal, state, county, or city entity when acting in ~~his or her~~ their
33 official capacity. The person taking the wild pig shall report the taking no later than
34 the next working day to the department and shall make the carcass available to the
35 department. Unless otherwise directed by the department and notwithstanding
36 Section 4657, the person taking a wild pig pursuant to this subdivision, or to whom
37 the carcass of a wild pig taken pursuant to this subdivision is transferred pursuant
38 to subdivision (c), may possess the carcass of the wild pig. The person in possession
39 of the carcass shall make use of the carcass, which may include an arrangement for
40 the transfer of the carcass to another person or entity, such as a nonprofit
41 organization, without compensation. The person who arranges this transfer shall be
42 deemed to be in compliance with Section 4304. ~~A violation of this subdivision is~~

1 ~~punishable pursuant to Section 12000.~~ It is the intent of the Legislature that nothing
2 in this subdivision shall be interpreted to authorize a person to take wild pigs
3 pursuant to this subdivision in violation of a state statute or regulation or a local
4 zoning or other ordinance that is adopted pursuant to other provisions of law and
5 that restricts the discharge of firearms.

6 (c) The department shall make a record of each report made pursuant to
7 subdivision (a) or (b) and may have an employee of the department investigate the
8 taking or cause the taking to be investigated. The person taking a wild pig shall
9 provide information as deemed necessary by the department. Upon completion of
10 the investigation, the investigator may, upon a finding that the requirements of this
11 section have been met with respect to the particular bear or wild pig taken under
12 subdivision (a) or (b), issue a written statement to the person confirming that the
13 requirements of this section have been met. The person who took the wild pig may
14 transfer the carcass to another person without compensation.

15 (d) Notwithstanding Section 4763, any part of any bear lawfully possessed
16 pursuant to this section is subject to Section 4758.

17 (e) Nothing in this section prohibits federal, state, or county trappers from killing
18 or trapping bears when the bears are killing or molesting livestock, but no iron-
19 jawed or steel-jawed or any type of metal-jawed trap shall be used to take the bear,
20 and no person, including employees of the state, federal, or county government,
21 shall take bear with iron-jawed or steel-jawed or any type of metal-jawed traps.

22 **Comment.** Subdivision (b) of Section 4181.1 is amended to delete a superfluous sentence.

23 The section is also amended to make it gender neutral.

24 **Fish & Game Code § 4181.5 (amended). Permit to take deer**

25 SEC. ____ . Section 4181.5 of the Fish and Game Code is amended to read:

26 4181.5. (a) Any owner or tenant of land or property that is being damaged or
27 destroyed or is in immediate danger of being damaged or destroyed by deer may
28 apply to the department for a permit to kill those deer. The department, upon
29 satisfactory evidence of ~~that~~ actual or immediately threatened damage or
30 destruction, ~~actual or immediately threatened~~, shall, pursuant to regulations adopted
31 by the commission, issue a revocable permit for the taking and disposition of those
32 deer, for a designated period not to exceed 60 days ~~under regulations promulgated~~
33 ~~by the commission~~.

34 (b) The regulations of the commission shall include provisions concerning the
35 type of weapons to be used to kill the deer. The weapons shall be those as will ensure
36 humane killing, but the regulations of the commission shall provide for the use of a
37 sufficient variety of weapons to permit the designation of particular types to be used
38 in any particular locality commensurate with the need to protect persons and
39 property. Firearms using .22-caliber rimfire cartridges may be used only when
40 authorized by the director or ~~his~~ the director's designee. No pistols shall be used.

41 (c) The caliber and type of weapon to be used by each permittee shall be specified
42 in each permit by the issuing officer who shall take into consideration the location

1 of the area, the necessity for clean kills, the safety factor, local firearms ordinances,
2 and other factors that apply. Rifle ammunition used shall have expanding bullets;
3 shotgun ammunition shall have only single slugs, or, if authorized by the
4 department, 0 or 00 buckshot.

5 ~~(e)~~ (d) ~~The~~ At the time a permit is issued pursuant to subdivision (a), the
6 department shall issue tags similar to those provided for in Section 4331 at the same
7 time the permit is issued. A permittee under this section The permittee shall carry
8 the tags while hunting the deer for which the permit was issued, and upon the killing
9 of any deer, shall immediately fill do all of the following:

10 (1) Fill out both parts of the tag, and clearly punch out clearly the date of the kill.

11 ~~One~~

12 (2) Attach one part of the completed tag shall be immediately attached to the
13 antlers of antlered deer, or to the ear of any other deer, and kept keep that part of the
14 tag attached to the deer until 10 days after the permit has expired. The

15 (3) Obtain a countersignature on the other part of the tag shall be immediately sent
16 to the department after it has been countersigned by any person authorized by
17 pursuant to Section 4341.

18 (4) Send the countersigned part of the tag to the department.

19 ~~(d)~~ (e) A permit issued pursuant to this section may be renewed only after a
20 finding by the department that further damage has occurred or will occur, unless
21 that permit is renewed. A person seeking renewal of the permit pursuant to this
22 subdivision shall account do all of the following:

23 (1) Account for all prior tags previously issued at the time he or she received any
24 with all prior permits, and if .

25 (2) If any previously issued tags are unused, he or she shall show either that of the
26 following:

27 (A) That any deer previously killed pursuant to a previously issued permit could
28 not reasonably be have been tagged or why .

29 (B) Why the killing was not accomplished within the allotted time allotted for that
30 killing, and why that the killing would be accomplished under a new time period.

31 **Comment.** Section 4181.5 is amended for clarity, and to add a subdivision designation and
32 paragraph designations.

33 The section is also amended to make it gender neutral.

34 **Fish & Game Code § 5700 (amended). Specified districts**

35 SEC. _____. Section 5700 of the Fish and Game Code is amended to read:

36 5700. (a) Notwithstanding Sections 5670, 5672, 8341, and 9050, native and
37 nonnative mollusks may be taken in Districts 12 and 13 and moved to other areas to
38 be purified for human consumption under such rules and regulations as shall be
39 established by the commission. ~~Such~~ Those regulations may include, but are not
40 limited to, bag limits, methods of harvest, and provisions for public use.

1 (b) Mollusks taken under this section shall not be used for human consumption
2 unless ~~such that~~ use is approved by the ~~State Department of Health Services~~ State
3 Department of Public Health.

4 **Comment.** Section 5700 is amended to update an obsolete reference to the State Department of
5 Health Services. See Health & Safety Code §§ 20 and 131052(6).

6 The section is also amended to add subdivisions and make technical corrections.

7 **Fish & Game Code § 5701 (amended). Sanitary surveys**

8 SEC. ____ . Section 5701 of the Fish and Game Code is amended to read:

9 5701. (a) ~~The State Department of Health Services~~ State Department of Public
10 Health may make sanitary surveys of mollusk-growing areas or may use sanitary
11 surveys of mollusk-growing areas made by qualified state or county agencies, and
12 based on ~~such that~~ information may classify ~~such those~~ areas for purposes of
13 harvesting and moving mollusks ~~which that~~ are to be purified for human
14 consumption in accordance with Section 5700.

15 (b) ~~The State Department of Health Services~~ State Department of Public Health
16 shall adopt ~~such~~ rules and regulations ~~as are~~ necessary to implement this section.

17 **Comment.** Section 5701 is amended to update obsolete references to the State Department of
18 Health Services. See Health & Safety Code §§ 20 and 131052(6).

19 The section is also amended to add subdivisions and make technical corrections.

20 **Fish & Game Code § 5946 (amended). Dams constructed in District 4^{1/2}**

21 SEC. ____ . Section 5946 of the Fish and Game Code is amended to read:

22 5946. (a) The provisions of Section 5938 shall not be applicable to dams
23 constructed in District 4^{1/2} after September 9, 1953.

24 (b) No permit or license to appropriate water in District 4^{1/2} shall be issued by the
25 ~~State Water Rights Board~~ State Water Resources Control Board after September 9,
26 1953, unless conditioned upon full compliance with Section 5937.

27 (c) Plans and specifications for any ~~such~~ dam described in subdivision (a) shall
28 not be approved by the Department of Water Resources unless adequate provision
29 is made for full compliance with Section 5937.

30 **Comment.** Section 5946 is amended to update a reference to the former State Water Rights
31 Board.

32 The section is also amended to add subdivision designations and make ~~a technical correction~~
33 other technical corrections.

34 **Fish & Game Code § 6657 (amended). Scientific and educational permits**

35 SEC. ____ . Section 6657 of the Fish and Game Code is amended to read:

36 6657. The commission may, subject to ~~such~~ regulations ~~as it may deem it deems~~
37 proper, grant permits to any department of the United States Government or to any
38 scientific or any educational institution, to harvest kelp at any time for scientific or
39 experimental purposes without the payment of the kelp license or ~~privilege tax~~
40 royalty imposed by this chapter.

1 **Comment.** Section 6657 is amended to more precisely describe the nature of payments
2 referenced in the section. See Section 6680 (requiring payment of “royalty” for harvesting kelp).

3 The section is also amended to make other technical corrections.

4 **Fish & Game Code § 7850 (amended). Activity requiring license**

5 SEC. ____ . Section 7850 of the Fish and Game Code is amended to read:

6 7850. (a) Excepting persons expressly exempted under this code, no person shall
7 use or operate, or assist in using or operating, any boat, aircraft, net, trap, line, or
8 other appliance to take fish or amphibia for commercial purposes, and no person
9 shall cause to be brought ashore, any fish or amphibia at any point in the state for
10 the purpose of selling them in a fresh state or shall contribute materially to the
11 activities on board the commercial fishing vessel, unless the person holds a
12 commercial fishing license issued by the department.

13 (b) Any person not required under subdivision (a) to hold a commercial fishing
14 license shall register ~~his or her~~ their presence on board the commercial fishing vessel
15 in a log maintained by the owner or operator of the vessel according to the
16 requirements of the department.

17 (c) As used in this section, “person” ~~does not include persons who are less than~~
18 ~~16 years of age, a partnership, corporation, or association~~ means a natural person 16
19 years of age or greater. Any person, partnership, corporation, limited liability
20 company, or association may pay the fees for a license issued to any person.

21 (d) This article does not apply to the taking, transporting, or selling of live
22 freshwater fish for bait by the holder of a live freshwater bait fish license issued
23 pursuant to Section 8460.

24 **Comment.** Subdivision (b) of Section 7850 is amended to make the section gender neutral.

25 Subdivision (c) ~~of Section 7850~~ is amended to clarify the definition of the term “person” as used
26 in the section.

27 **Fish & Game Code § 8043 (amended). Landing receipt**

28 SEC. ____ . Section 8043 of the Fish and Game Code is amended to read:

29 8043. (a) ~~Every commercial fisherman who sells or delivers fish that he or she has~~
30 ~~taken to any person who is not licensed under Article 7 (commencing with Section~~
31 ~~8030), and every person who is required to be licensed under Article 7 (commencing~~
32 ~~with Section 8030) to conduct the activities of a fish receiver, as described in Section~~
33 ~~8033, shall~~ The following persons are required to make a legible landing receipt
34 record , on a form to be furnished and in a manner prescribed by the department.
35 ~~The landing receipt shall be completed at the time of the receipt, purchase, or~~
36 ~~transfer of fish, whichever occurs first. :~~

37 (1) Any person who is required to be licensed under Article 7 (commencing with
38 Section 8030) to conduct the activities of a fish receiver as described in Section
39 8033.

40 (2) Any commercial fisherman who sells or delivers fish that the fisherman has
41 taken to any person who is not a fish receiver licensed under Article 7 (commencing
42 with Section 8030).

1 (3) Any person licensed under Article 7 (commencing with Section 8030) who
2 takes their own fish.

3 (b) The landing receipt shall show all of the following:

4 (1) The name of the species of landed fish as designated by the department, or if
5 not designated, the commonly used name of the species.

6 (2) The accurate weight of the species of fish received, as designated pursuant to
7 Section 8045. Sablefish may be reported in dressed weight, and if so reported, shall
8 have the round weights computed, for purposes of management quotas, by
9 multiplying 1.6 times the reported dressed weight.

10 (2) (3) The commercial fisherman's name of the fisherman and the fisherman's
11 commercial fishing license identification number.

12 (3) (4) The department registration number of the boat.

13 (4) (5) The recipient's name of the recipient of the fish, and that person's
14 identification number, if applicable.

15 (5) (6) The date of receipt.

16 (6) (7) The price paid for the fish.

17 (7) (8) The department origin block number where the fish were caught.

18 (8) (9) The type of gear used.

19 (9) (10) Any other information the department may prescribe require.

20 (c) Persons identified in paragraph (1) or (2) of subdivision (a) shall complete the
21 landing receipt at the time of the receipt, purchase, or transfer of fish, whichever
22 occurs first. Persons identified in paragraph (3) of subdivision (a) shall complete the
23 landing receipt at the time the fish are brought ashore.

24 (d) Any person taking, purchasing, or receiving fish, whether or not licensed under
25 Article 7 (commencing with Section 8030), shall sign the landing receipt.

26 (e) The numbered landing receipt forms receipts in each individual landing receipt
27 book shall be completed sequentially.

28 (f) A voided fish landing receipt shall have the word "VOID" plainly and
29 noticeably written on the face of the receipt. A voided fish landing receipt, and shall
30 be submitted to the department in the same manner as a completed fish landing
31 receipt is submitted to the department.

32 (g) A fish receiver who is no longer conducting business as a licensed receiver
33 shall forward all unused landing receipts and landing receipt books to the
34 department immediately upon terminating his or her their business activity.

35 **Comment.** Section 8043 is amended for clarity, and to consolidate provisions from other code
36 sections relating to the subject matter of the Section 8043. The section is also amended to make it
37 gender neutral.

38 The last sentence of subdivision (a) is relocated to subdivision (c).

39 Paragraph (3) of subdivision (a), and the second sentence of subdivision (c), continue the first
40 sentence of Section 8047(a)(1).

41 Paragraph (1) of subdivision (b) continues a provision of former Section 8045.

42 Subdivision (d) continues the third sentence of Section 8047(b).

1 **Fish & Game Code § 8047 (amended). Processing of landing and transportation receipt**

2 8047. (a)(1) A person licensed under Article 7 (commencing with Section 8030)
3 who takes ~~his or her~~ their own fish shall ~~make a legible record in the form of deliver~~
4 the original signed copy of the landing receipt as required by Sections 8043 and
5 8043.1 ~~at the time the fish are brought ashore. The original signed copy of the~~
6 ~~landing receipt shall be delivered by the licensee to the department, as provided in~~
7 Section 8046. A copy of the landing receipt shall be retained by the licensee for a
8 period of four years and shall be available for inspection at any time within that
9 period by the department. A copy of the landing receipt shall be delivered to an
10 agent authorized in writing by the majority of the persons who participated in the
11 taking of the fish, excluding the commercial fisherman receiving the original copy.

12 (2) A person licensed under Section 8033.5 who sells ~~his or her~~ their fish to a
13 licensed receiver may use a transportation receipt to transport those fish only to that
14 licensed receiver. The receiver shall complete a landing receipt for those fish. A
15 person who sells ~~his or her~~ their fish to the ultimate consumer shall complete a
16 landing receipt pursuant to Sections 8043 and 8043.2. Transportation receipts shall
17 be completed at the time the fish are transferred from the fishing vessel.

18 (b) Every commercial fisherman who sells fish taken from the waters of this state
19 or brought into this state in fresh condition to persons not licensed to receive fish
20 for commercial purposes pursuant to Article 7 (commencing with Section 8030)
21 shall make a legible record in the form of the landing receipt required by Sections
22 8043 and 8043.1. ~~Persons subject to Section 8043 shall remit the landing fee~~
23 ~~imposed by Section 8041. The person taking, purchasing, or receiving the fish,~~
24 ~~whether or not licensed under Article 7 (commencing with Section 8030), shall sign~~
25 ~~the landing receipt.~~ The original signed copy of the landing receipt shall be delivered
26 by the commercial fisherman to the department, as provided in Section 8046. A
27 copy of the landing receipt shall be retained by the commercial fisherman for a
28 period of four years and shall be available for inspection at any time within that
29 period by the department. A copy of the landing receipt shall be retained by the
30 person taking, purchasing, or receiving the fish until they are prepared for
31 consumption or otherwise disposed of. A copy of the landing receipt shall be
32 delivered to an agent authorized in writing by the majority of the persons who
33 participated in the taking of the fish, excluding the commercial fisherman receiving
34 the original copy.

35 (c)(1) Every commercial fisherman or ~~his or her~~ their designee, who transports,
36 causes to be transported, or delivers to another person for transportation, any fish,
37 except herring, taken from the waters of this state or brought into this state in fresh
38 condition, shall fill out a transportation receipt according to the instructions and on
39 forms provided by the department at the time the fish are brought ashore.

40 (2) The original signed copy of the transportation receipt shall be delivered by the
41 commercial fisherman to the department on or before the 16th day or the last day of
42 the month in which the fish were landed, whichever date occurs first after landing.
43 A copy of the transportation receipt shall be retained by the commercial fisherman

1 who filled it out for a period of four years and shall be available for inspection at
2 any time within that period by the department. A copy of the transportation receipt
3 shall be given to and retained by the person transporting the fish until the fish are
4 sold fresh, processed, or otherwise disposed of.

5 (3) The transportation receipt is required only for transit purposes.

6 (4) A person transporting fish from the point of first landing under a transportation
7 receipt is not required to be licensed to conduct the activities of a fish receiver as
8 described in Section 8033.

9 (5) The transportation book receipt shall be issued to an individual fisherman and
10 is not transferable.

11 (d) The transportation receipt shall contain all of the following information:

12 (1) The name of each species of transported fish, ~~pursuant to Section 8045 as~~
13 designated by the department, or if not designated, the commonly used name of the
14 species.

15 (2) The date and time of the receipt.

16 (3) The accurate weight of the species of fish being transported. Sablefish may be
17 reported in dressed weight, and if so reported, shall have the round weights
18 computed, for purposes of management quotas, by multiplying 1.6 times the
19 reported dressed weight.

20 (4) The name and identification number of the fisherman. The signature of the
21 fisherman authorizing transportation.

22 (5) The name of the person transporting the fish.

23 (6) The name of the fish business, the fish business identification number, and the
24 corresponding landing receipt number issued by the fish business to the commercial
25 fisherman.

26 (7) The department registration number of the vessel and the name of the vessel.

27 (8) The department origin block number where the fish were caught.

28 (9) The port of first landing.

29 (10) Any other information the department may prescribe.

30 (e) The numbered transportation receipt forms in each individual transportation
31 receipt book shall be completed sequentially. A voided fish transportation receipt
32 shall have the word "VOID" plainly and noticeably written on the face of the receipt.
33 A voided fish transportation receipt shall be submitted to the department in the same
34 manner as a completed fish transportation receipt is submitted to the department. A
35 commercial fisherman who is no longer conducting business as a licensed fisherman
36 shall forward all unused transportation receipts and transportation receipt books to
37 the department immediately upon terminating ~~his or her~~ their business activity.

38 **Comment.** Section 8047 is amended to clarify its interrelationship with other sections and
39 eliminate duplicate provisions. The section is also amended to make it gender neutral.

40 A portion of the first sentence of paragraph (1) of subdivision (a) is continued in Section
41 8043(a)(3), and the remainder is combined with the second sentence of that paragraph.

42 The second sentence of subdivision (b) is continued in Section 8041.

43 The third sentence of subdivision (b) is continued in Section 8043(d).

1 The amendment of paragraph (1) of subdivision (d) continues a provision from former Section
2 8045.

3 **Fish & Game Code § 8614-8615 (repealed). Development of Alternative Fishing Gear**

4 **SEC. ____.** Article 1.5 (commencing with Section 8614) of Chapter 3 of Part 3 of
5 Division 6 of the Fish and Game Code is repealed.

6 **Comment.** Article 1.5 is repealed as obsolete. See Section 1022.

7 **Fish & Game Code § 8755 (amended). Districts 20, 20A, and 21**

8 **SEC. ____.** Section 8755 of the Fish and Game Code is amended to read:

9 8755. (a) In Districts 20A and 21, ~~purse and~~ round haul nets may be used.

10 ~~(a)~~ (b) In District 20, ~~Purse and~~ round haul nets may be used, except (1) from
11 sunrise Saturday to sunset Sunday, in ~~that portion of District 20~~ the area from a line
12 extending three nautical miles east magnetically from the extreme easterly end of
13 Santa Catalina Island southwesterly and northerly to a line extending three nautical
14 miles southwest magnetically from the most southerly promontory of China Point
15 and (2) at any time during the period commencing on June ~~1st~~ 1 and ending on
16 September 10 in each year, ~~that portion of District 20~~ the area from a line extending
17 three nautical miles east magnetically from the extreme easterly end of Santa
18 Catalina Island southerly to a line extending three nautical miles southeasterly
19 magnetically from the United States government light on the southeasterly end of
20 Santa Catalina Island.

21 ~~(b)~~ (c) Subdivision ~~(a)~~ (b) shall not be construed as restricting the right to use the
22 waters therein specified for anchorage of vessels at any time.

23 **Comment.** Section 8755 is amended to eliminate superfluous references to purse nets. See
24 Section 8750 (round haul nets include purse nets).

25 ~~Subdivision (a) of the section is also amended to insert an inadvertently omitted introductory~~
26 ~~clause and make conforming technical changes.~~

27 The section is also amended to add a subdivision designation before the first paragraph of the
28 section, insert an inadvertently omitted introductory clause in the subdivision following the first
29 paragraph, and make other technical corrections.

30 **Fish & Game Code § 8841 (amended). Bottom trawl fisheries**

31 **SEC. ____.** Section 8841 of the Fish and Game Code is amended to read:

32 8841. (a) The commission is hereby granted authority over all state-managed
33 bottom trawl fisheries not managed under a federal fishery management plan
34 pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16
35 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to Part 1.7
36 (commencing with Section 7050), to ensure that resources are sustainably managed,
37 to protect the health of ecosystems, and to provide for an orderly transition to
38 sustainable gear types in situations where bottom trawling may not be compatible
39 with these goals.

40 (b) The commission is hereby granted authority to manage all of the following
41 fisheries in a manner that is consistent with this section and Part 1.7 (commencing
42 with Section 7050):

- 1 (1) California halibut.
- 2 (2) Sea cucumber.
- 3 (3) Ridge-back, spot, and golden prawn.
- 4 (4) Pink shrimp.

5 (c) The commission is also granted authority over other types of gear targeting the
6 same species as the bottom trawl fisheries referenced in subdivision (a) to manage
7 in a manner that is consistent with the requirements of Part 1.7 (commencing with
8 Section 7050).

9 (d) Every commercial bottom trawl vessel issued a state permit is subject to the
10 requirements and policies of the federal groundfish observer program (50 C.F.R.
11 ~~660.360~~ 660.16).

12 (e) The commission may only authorize additional fishing areas for bottom trawls
13 after it determines, based on the best available scientific information, that bottom
14 trawling in those areas is sustainable, does not harm bottom habitat, and does not
15 unreasonably conflict with other users.

16 (f) It is unlawful to use roller gear more than eight inches in diameter in
17 connection with a trawl net.

18 (g) Commencing April 1, 2006, it is unlawful to fish commercially for prawns or
19 pink shrimp, unless an approved bycatch reduction device is used with each net. On
20 or before April 1, 2006, the commission shall approve one or more bycatch
21 reduction devices for use in the bottom trawl fishery. For purposes of this
22 subdivision, a rigid grate fish excluder device is the approved type of bycatch
23 reduction device unless the commission, the Pacific Marine Fishery Management
24 Council, or the National Marine Fisheries Service determines that a different type
25 of fish excluder device has an equal or greater effectiveness at reducing bycatch. If
26 the commission does not approve a bycatch reduction device prior to April 1, 2006,
27 then a device that is approved by the Pacific Marine Fishery Management Council
28 or the National Marine Fisheries Service shall be deemed approved by the
29 commission.

30 (h) Except as provided in Section 8495 or 8842, it is unlawful to engage in bottom
31 trawling in ocean waters of the state.

32 (i) This section does not apply to the use of trawl nets pursuant to a scientific
33 research permit.

34 (j) The commission shall facilitate the conversion of bottom trawlers to gear that
35 is more sustainable if the commission determines that conversion will not contribute
36 to overcapacity or overfishing. The commission may participate in, and encourage
37 programs that support, conversion to low-impact gear or capacity reduction by trawl
38 fleets. The department may not issue new permits to bottom trawlers to replace those
39 retired through a conversion program.

40 ~~(k) As soon as practicable, but not later than May 1, 2005, the commission and~~
41 ~~the department shall submit to the Pacific Fishery Management Council and the~~
42 ~~National Marine Fisheries Service a request for federal management measures for~~
43 ~~the pink shrimp fishery that the commission and the department determine are~~

1 ~~needed to reduce bycatch or protect habitat, to account for uncertainty, or to~~
2 ~~otherwise ensure consistency with federal groundfish management.~~

3 (H) (k) No vessel may utilize bottom trawling gear without a state or federal permit.

4 **Comment.** Subdivision (d) of Section 8841 is amended to correct an erroneous cross-reference.

5 Subdivision (f) of Section 8841 is amended to clarify the context in which the provision is
6 intended to apply.

7 Subdivision (k) is deleted as obsolete.

8 **Fish & Game Code § 9050 (amended). Miscellaneous tools**

9 SEC. ____ . Section 9050 of the Fish and Game Code is amended to read:

10 9050. A spade, shovel, hoe, rake, or other appliance operated by hand may be used
11 to take mollusks, sand crabs, and shrimps in Districts 1, 1^{1/2}, 2, 2^{1/2}, 3, 3^{1/2}, 4, 4^{1/8},
12 4^{3/4}, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 20, 20A, and 21, except as
13 specified in Sections Section 7332 and 8303, and except that freshwater clams shall
14 not be taken by means of ~~such~~ any of those appliances on any levee or on the berm
15 of any levee.

16 **Comment.** Section 9050 is amended to delete obsolete material, and make a technical correction.

17 **Fish & Game Code § 10844 (amended). Education and outreach**

18 SEC. ____ . Section 10844 of the Fish and Game Code is amended to read:

19 10844. (a) The department shall undertake appropriate education and outreach
20 regarding the current location of existing game refuges, agency contacts for
21 statutory notices in Sections 10506 and 10507, and the potential closure of all state
22 game refuges, except the California Sea Otter Game Refuge and the Farallon Islands
23 Game Refuge.

24 (b) The department shall provide an opportunity for public comment concerning
25 the potential elimination of game refuges.

26 (c) The department shall provide information about game refuge boundaries,
27 including, but not limited to, maps available both on the department's Internet Web
28 site and in hardcopy format.

29 (d) The department shall also provide ~~Internet Web site~~ internet website contact
30 information for the public to contact the department in accordance with state law.

31 (e) The department may conduct regional workshops as it determines to be
32 necessary to provide public information about the proposed elimination of game
33 refuges.

34 ~~(b) The department, on or before January 1, 2011, shall prepare and submit to the~~
35 ~~Legislature a description of the public education and outreach effort undertaken~~
36 ~~pursuant to subdivision (a), and a summary of any information provided by the~~
37 ~~public that is relevant to the potential closure of all state game refuges except the~~
38 ~~California Sea Otter Game Refuge and the Farallon Islands Game Refuge.~~

39 **Comment.** Section 10844 is amended to delete subdivision (b) of the section as obsolete.

40 The section is also amended to add new subdivision designations and make a technical
41 correction.

1 **Fish & Game Code § 12017 (amended). Deposit of specified funds**

2 SEC. ____ . Section 12017 of the Fish and Game Code, as amended by Section 16
3 of Chapter 258 of the Statutes of 2022, is amended to read:

4 12017. (a) Notwithstanding subdivision (a) of Section 13001, any recovery or
5 settlement of money received pursuant to the following sections shall be deposited
6 in the Fish and Wildlife Pollution Account:

7 (1) Section 2014.

8 (2) Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division
9 6.

10 (3) Section 12015 or 12016.

11 (4) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors and
12 Navigation Code.

13 (5) Section 13442 of the Water Code.

14 (6) Proceeds or recoveries from pollution and abatement actions.

15 (b) Moneys in the account are continuously appropriated to the department,
16 except as provided in Section 13230.

17 (c) Funds in the account shall be expended for the following purposes:

18 (1) Abatement, cleanup, and removal of pollutants from the environment.

19 (2) Response coordination, planning, and program management.

20 (3) Resource injury determination.

21 (4) Resource damage assessment.

22 (5) Economic valuation of resources.

23 (6) Restoration or rehabilitation at sites damaged by pollution.

24 (d) Notwithstanding subdivision (c), funds in the account in excess of one million
25 dollars (\$1,000,000) as of July 1 of each year may also be expended for the
26 preservation of California plants, wildlife, and fisheries.

27 (e) Funds in the account may be expended for cleanup and abatement if a
28 reasonable effort has been made to have the responsible party pay cleanup and
29 abatement costs and funds are not available for disbursement from the emergency
30 reserve account of the Toxic Substances Control Account in the General Fund
31 pursuant to Section 78875 of the Health and Safety Code.

32 (f) The department may use funds in the account to pay the costs of consultant
33 contracts for resource injury determination or damage assessment during hazardous
34 material or oil spill emergencies. These contracts are not subject to Part 2
35 (commencing with Section 10100) of Division 2 of the Public Contract Code.

36 **Comment.** Subdivision (a) of Section 12017 is amended to correct an overbroad cross-reference.